

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KOJUAN MILES

Plaintiff

v.

BOBBY LUMPKIN, ET AL.

Defendants

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Case No. 6:20cv334-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Kojuan Miles, proceeding *pro se*, filed the above-styled and numbered lawsuit under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636.

Plaintiff filed a motion for partial summary judgment seeking judgment against Bobby Lumpkin, the Director of the Correctional Institutions Division of the Texas Department of Criminal Justice. The Magistrate Judge issued a Report recommending that the motion for partial summary judgment be denied. A copy of this Report was sent to Plaintiff, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420-21 and n.9 (5th Cir. 2019).


This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings or clear error or

abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 43) be **ADOPTED**. The motion for partial summary judgment filed by the Plaintiff (Docket No. 31) is **DENIED**.

So **ORDERED** and **SIGNED** this **23rd** day of **February, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE